

Title	Mediator and Evaluator Education, Experience, and Training Requirements (amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5)
Summary	The proposed amendments would modify both the initial education, experience, and training requirements and the continuing education requirements for mediators and evaluators in the context of dependency and family law.
Source	Family and Juvenile Law Advisory Committee Hon. Mary Ann Grilli and Hon. Susan Huguenor, Co-chairs
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Discussion	<p><u>Rule 5.210. Court-connected child custody mediation</u></p> <p>Rule 5.210 establishes standards of practice for court-connected child custody mediation services. While it mandates that court-connected child custody mediators complete continuing education annually, there is no specification as to how many hours are needed to satisfy this requirement. To be consistent with the continuing education requirements in rules 5.225(g) and 1405.5(g), the Family and Juvenile Law Advisory Committee proposes amending rule 5.210 to require child custody mediators to complete 8 hours of continuing education each year.</p> <p>Rule 5.225 establishes education, experience, and training standards for child custody evaluators while rule 1405.5 concerns juvenile dependency mediation programs and dependency mediators. Consistency among these rules is important because mediators and evaluators in the dependency and family law context often function in multiple roles or require training in the same or related subject areas. Therefore, the proposal would allow any annual continuing education completed under rules 5.225(g) or 1405.5(g) to count toward fulfilling the continuing education requirements of this rule if the hours obtained were relevant to child custody mediation.</p> <p>The proposal would further clarify that the 8 hours of continuing education is in addition to the 4 hours of annual domestic violence training described in rule 5.230, which is also consistent with rules</p>

5.225 and 1405.5.

Finally, because directors and mediation supervisors would also be subject to the 8 hours of annual continuing education, this proposal would reduce the amount of additional hours of training required for directors and supervisors from 32 to 24 hours.

Rule 5.230. Domestic violence training standards for court-appointed child custody investigators and evaluators

Rule 5.230 establishes domestic violence training standards for court-appointed child custody investigators and evaluators. The rule currently requires child custody evaluators and investigators to complete 4 hours of in-person update training on an annual basis. The committee recommends eliminating the requirement that the training be received in person. This modification would provide flexibility by allowing child custody evaluators to complete training through distance learning, such as online coursework or broadcast instruction, in addition to in-person instruction.

Rule 1405.5. Court-connected dependency mediation

Rule 1405.5, which became effective January 1, 2004, establishes mandatory guidelines for juvenile dependency mediation programs.

The Family and Juvenile Law Advisory Committee proposes the following amendments to the list of protocols outlined in subdivision (d)(6), which concerns the inclusion of children in mediation:

1. In subdivision (d)(6)(A), require the mediator to explain how the child may participate in the mediation, rather than his or her options of participation; and
2. In subdivision (d)(6)(G), allow the child to leave the mediation session, rather than terminate the mediation session, if his or her emotional or physical well-being is threatened. While the child may leave or take a break from the mediation session if necessary, he or she does not have the authority to terminate the entire session.

The committee also proposes the following amendments to subdivision (e), which sets forth minimum education, experience, and training requirements for dependency mediators:

1. In subdivision (e)(1)(B), delete the requirement that a dependency mediator with a legal degree must also have experience in the field of juvenile or family law. The experience requirements are detailed in subdivision (e)(2).
2. In subdivision (e)(2), add child welfare worker to the list of professional fields of experience that would qualify someone to conduct dependency mediations.
3. In subdivision (e)(2), amend the experience requirements to emphasize that professional experience in juvenile dependency court is more directly related to the practice of dependency mediation than experience in domestic relations court.
4. In subdivision (e)(3), delete the provision that precludes training received prior to January 1, 2002, from satisfying the initial training requirements. Because many practicing dependency mediators completed relevant training prior to 2002, program administrators have expressed concern that this provision is financially burdensome and unnecessarily time consuming for dependency mediators and mediation programs. Currently, the rule mandates 12 hours of continuing education each year, which will ensure that dependency mediators receive updated training.
5. In subdivision (e)(3), add language to emphasize that training must be related to the practice of dependency mediation.
6. In subdivision (e)(3), make organizational and grammatical changes to the list of training topics to improve the clarity of the rule. The list has been regrouped so that related topics are clustered together. While the list retains the same substantive matter, the proposed language is more concise.

The text of the proposed amended rules is attached at pages 4–10.

Attachments

Rules 5.210, 5.230, and 1405.5 of the California Rules of Court would be amended, effective January 1, 2005, to read:

Rule 5.210. Court-connected child custody mediation

(a)–(e) ***

(f) **[Training, continuing education, and experience requirements for mediator, mediation supervisor, and family court services director]** As specified in Family Code sections 1815 and 1816:

(1) All mediators, mediation supervisors, and family court service program directors must:

(A) ***

(B) ~~Attend~~ Annually complete 8 hours of related continuing education programs, conferences, and workshops; This requirement is in addition to the annual 4-hour domestic violence update training described in rule 5.230. Continuing education hours obtained under rule 5.225(g) or rule 1405.5(g) that are relevant to child custody mediation will also count toward fulfillment of the mediator continuing education requirement; and

(C) ***

(2) Each family court services director and mediation supervisor must ~~attend~~ complete at least ~~32~~ 24 hours of additional training each calendar year. This requirement may be satisfied in part by the domestic violence training required by Family Code section 1816.

(g) ***

Rule 5.230. Domestic violence training standards for court-appointed child custody investigators and evaluators

(a)–(c) ***

(d) **[Mandatory training]** Persons appointed as child custody investigators under Family Code section 3110 or Evidence Code section 730, and persons who are professional staff or trainees in a child custody or visitation evaluation or

1 investigation, must complete basic training in domestic violence issues as
2 described in Family Code section 1816 and in addition:

3
4 (1) ***

5
6 (2) (*Annual update training*) Four hours of update training are required each
7 year after the year in which the advanced training is completed. These
8 four hours must consist of ~~in-person classroom~~ instruction focused on, but
9 not limited to, an update of changes or modifications in local court
10 practices, case law, and state and federal legislation related to domestic
11 violence, and an update of current social science research and theory,
12 particularly in regard to the impact on children of exposure to domestic
13 violence.
14

15 (e)–(h) ***
16

17 **Rule 1405.5. Court-connected dependency mediation**
18

19 (a)–(c) ***
20

21 (d) [**Mediation process**] The dependency mediation process must be conducted in
22 accordance with pertinent state laws, applicable rules of court, and local
23 protocols. All local protocols must include the following:
24

25 (1)–(5) ***
26

27 (6) Protocols related to the inclusion of children in the mediation, including a
28 requirement that the mediator explain in an age appropriate way the
29 mediation process to a participating child. The following information
30 must be explained to the child:
31

32 (A) ~~The options available to~~ How the child may ~~for his or her~~
33 ~~participation~~ participate in the mediation;
34

35 (B) What occurs during the mediation process;
36

37 (C) The role of the mediator;
38

39 (D) What the child may realistically expect from the mediation, and the
40 limits on his or her ability to affect the outcome;
41

42 (E) Any limitations on the confidentiality of the process;

1
2 (F) The child's ~~absolute~~ right to be accompanied, throughout the
3 mediation, by his or her attorney and other support persons; and
4

5 (G) The child's ~~ability to take a break or terminate~~ right to leave the
6 mediation session if his or her emotional or physical well-being is
7 threatened.
8

9 (7)–(9) ***
10

11 (e) **[Education, experience, and training requirements for dependency**
12 **mediators]** Dependency mediators must meet the following minimum
13 qualifications:
14

15 (1) Possession of one of the following:
16

17 (A) A master's or doctoral degree in psychology, social work, marriage
18 and family therapy, conflict resolution, or another behavioral science
19 substantially related to family relationships, family violence, child
20 development, or conflict resolution from an accredited college or
21 university; or
22

23 (B) A Juris Doctor or bachelor of laws degree ~~with demonstrated~~
24 ~~experience in the field of juvenile or family law.~~
25

26 (2) At least two years of experience as an attorney, a referee, a judicial
27 officer, ~~or a mediator, or a child welfare worker~~ in juvenile dependency
28 court ~~or domestic relations court~~, or at least three years of experience in
29 mediation, or counseling, ~~psychotherapy, or any combination thereof,~~
30 preferably in a setting related to juvenile dependency or domestic
31 relations; and
32

33 (3) Completion of at least 40 hours of initial dependency mediation training
34 prior to or within 12 months of beginning practice as a dependency
35 mediator. Currently practicing dependency mediators must complete the
36 required 40 hours of initial training by January 1, 2006; ~~at least 20 hours~~
37 ~~of this training must be completed by January 1, 2005. No training~~
38 ~~completed before January 1, 2002 may be used to satisfy these~~
39 ~~requirements.~~ The training must cover the following subject areas as they
40 relate to the practice of dependency mediation:
41

- ~~(A) The dynamics of physical and sexual abuse, exploitation, emotional abuse, endangerment, and neglect of children, and their impacts on children;~~
- ~~(B) Child development and its relevance to the needs of children, to child abuse and neglect, and to child custody and visitation arrangements;~~
- ~~(C) The dynamics of domestic and family violence, its relevance to child abuse and neglect, and its effects on children and adult victims;~~
- ~~(D) Substance abuse and its impact on children;~~
- ~~(E) The roles and participation of parents, other family members, children, attorneys, guardians ad litem, the child welfare agency staff, Court Appointed Special Advocates (CASAs), law enforcement, mediators, the court, and other involved professionals and interested participants in the mediation process;~~
- ~~(F) Juvenile dependency and child welfare systems, including dependency law;~~
- ~~(G) The dynamics of disclosure and recantation and of denial of child abuse and neglect;~~
- ~~(H) Adult and child psychopathology;~~
- ~~(I) The psychology of families, the dynamics of family systems, and the impacts of separation, divorce, and family conflict on children;~~
- ~~(J) Safety and treatment issues related to child abuse, neglect, and family violence;~~
- ~~(K) Available community resources for dealing with domestic and family violence; substance abuse; and housing, educational, medical, and mental health needs in addition to related services for families in the juvenile dependency system, such as regional centers;~~
- ~~(L) The impact that the mediation process can have on children's well-being and behavior, and when and how to involve children in mediation;~~

- ~~(M) Methods to assist parties in developing options for different parenting arrangements that consider the needs of the children and each parent's capacity to parent;~~
- ~~(N) Awareness of differing cultural values, including the dynamics of cross-generational cultural issues and local demographics;~~
- ~~(O) The Americans With Disabilities Act, its requirements, and strategies for handling situations involving disability issues or special needs;~~
- ~~(P) The effect on family dynamics of removal or nonremoval of children from their homes and family members, including the related implications for the mediation process;~~
- ~~(Q) The effect of poverty on family dynamics and parenting; and~~
- ~~(R) An overview of the special needs of dependent children, including their educational, medical, and psychosocial needs, and the resources available to meet those needs.~~
- (A) The dynamics of multiparty, multi-issue, multiagency, and high-conflict cases, including:
- (i) The roles and participation of parents, other family members, children, attorneys, guardians ad litem, the child welfare agency staff, Court Appointed Special Advocates (CASAs), law enforcement, mediators, the court, and other involved professionals and interested participants in the mediation process;
 - (ii) The impact that the mediation process can have on a child's well being, and when and how to involve the child in the process;
 - (iii) The methods to help parties collaboratively resolve disputes and jointly develop plans that consider the needs and best interests of the child;
 - (iv) The dynamics of disclosure, recantation, and denial of child abuse and neglect;
 - (v) Adult mental health issues; and

- 1
2 (vi) The requirements of the Americans With Disabilities Act and
3 strategies for handling situations involving disability issues or
4 special needs;
5
6 (B) The dynamics of physical and sexual abuse, exploitation, emotional
7 abuse, endangerment, and neglect of children, and their impacts on
8 children, including safety and treatment issues related to child abuse,
9 neglect, and family violence;
10
11 (C) The dynamics of family violence, its relevance to child abuse and
12 neglect, and its effects on children and adult victims, including
13 safety and treatment issues related to child abuse, neglect, and
14 family violence;
15
16 (D) Substance abuse and its impact on children;
17
18 (E) Child development and its relevance to child abuse, neglect, and
19 child custody and visitation arrangements;
20
21 (F) Juvenile dependency and child welfare systems, including
22 dependency law;
23
24 (G) The psychology of families and the dynamics of family systems,
25 including:
26
27 (i) The effect of removal or nonremoval of children from their
28 homes and family members;
29
30 (ii) The effect of terminating parental rights;
31
32 (iii) The effect of poverty; and
33
34 (iv) Awareness of differing cultural values, including cross-
35 generational cultural issues and local demographics;
36
37 (H) An overview of the special needs of dependent children, including
38 their educational, medical, psychosocial, and mental health needs;
39 and
40
41 (I) Available community resources and services for dealing with
42 domestic and family violence; substance abuse; and housing,

1 educational, medical, and mental health needs for families in the
2 juvenile dependency system.

3
4 **(f)–(i) *****